THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.24507 OF 2006

DATED: 14-06-2007

BETWEEN

T. Venugopal Reddy,
S/o. Megha Reddy,
Occ: Business,
R/o. Mothkur,
Nalgonda District.

...PETITIONER

AND

The Deputy Commissioner,
Prohibition and Excise,
Mahaboobnagar.

...RESPONDENTS

ORDER:

Heard the learned counsel for the petitioner as well as the learned Government Pleader appearing for the respondent.

2. Petitioner submits that the Prohibition and Excise Inspector, Mothkur Station, Nalgonda District registered a case in P.R.No.99 of 2006-07 on 01.08.2006 against him alleging that during the course of route-watch conducted by the Excise officials they have found a Maruti Car bearing No.APO-28-AB-0666 (Zen-Vx) carrying liquor, the total quantity of which is 24.75 litres. He further submits that he is the owner of the said car and that he has no knowledge about the alleged illegal transportation of the Indian Made Foreign Liquor, however, the said stock is duty paid and that he is not a licencee under any of the provisions of the Andhra Pradesh Excise Act,

1968 (for short 'the Act'). In fact, the said case is said to have been registered under Section 8(b) of the Act and as per Section 8(b) the said offence is compoundable as the alleged illegal possession of the liquor is within the permissible limit. He further submits that he has made a representation dated 30.10.2006 before the Deputy Commissioner of Prohibition and Excise, Mahaboobnagar requesting to compound the said case but the same has not been considered and disposed.

3. It is not in dispute that the Government vide G.O.Ms.No.1084 Revenue (Ex.II) Department dated 21.12.2004 issued Notification –II in exercise of the powers conferred by sub-clauses (i) and (ii) of clause (b) of Section 8 of the Act making an amendment quantifying the quantity of 26 litres as limit of possession in an offence registered under Section 8(b) of the Act. It is also pertinent to note that the Commissioner of Prohibition and Excise, Andhra Pradesh, Hyderabad also issued instructions in Cr.No.2166/07/DOE/C3 dated 16.09.2004 stating that in cases of IML pertaining to post prohibition period i.e. after 01.04.1997 booked under Section 34(a)of the Act or Section 8(b) of the Andhra Pradesh Prohibition and Excise Act, 1995 can be proposed for compounding if the contraband is within the limitations as per the rules and notifications already issued in respect of IMFL/FL, which is up to 26 litres. It is also pertinent to note that the representation of the petitioner dated 30.10.2006 has not been considered and disposed, though the petitioner is entitled for compounding the offence.

4. Having regard to the facts and circumstances of the case,
the respondent is directed to consider and dispose the representation of the petitioner dated 30.10.2006 for compounding the offence in accordance with the Rules and notification.

The writ petition is accordingly allowed. There shall be no order as to costs.

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V. ESWARAIAH, J

June 14, 2007
DSK